

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

IDEATIVE PRODUCT
VENTURES, INC.

Plaintiff,

v.

FRY'S ELECTRONICS, INC.

Defendant.

§
§
§
§
§
§
§
§
§
§

Case No. 4:16-cv-00796
JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Ideative Product Ventures, Inc. ("Ideative"), files this Complaint for Patent Infringement against Defendant Fry's Electronics, Inc. ("Fry's" or "Defendant"), and alleges as follows:

PARTIES

1. Ideative is a corporation organized and existing pursuant to the laws of Texas. Ideative's principal place of business is 1846 E. Rosemeade Parkway, Suite No. 144, Carrollton, Texas 75007.

2. Upon information and belief, Defendant Fry's Electronics, Inc. is a California corporation with its principal place of business at 600 East Brokaw Road, San Jose, California 95112. Fry's is registered to do business in Texas and it may be served with process by delivering a summons and a true and correct copy of this Complaint to its registered agent for receipt of service of process, Phillip E. Sampson, Jr., Bracewell & Giuliani, L.L.P., 711 Louisiana Street, Houston, Texas 77002.

JURISDICTION AND VENUE

3. This is an action for patent infringement arising under the United States Patent Act, 35 U.S.C. § 1, et seq. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338.

4. On information and belief, Defendant makes, imports, sells, and/or offers for sale products within the United States, including this District, that infringe one or more claims of United States Patent No. 7,494,343 entitled “Multiple Degrees Of Freedom Connectors And Adapters” (the “’343 Patent”). These products (“Accused Products”) include at least the following:

- PPA Int’l HDMI Ethernet 3D HD Tilt & Swivel Cable, 10ft
- PPA Int’l 6ft HDMI Ethernet 3D Tilt & Swivel
- Shaxon HDMI Male to Female 360 degree Swivel Adapter
- Shaxon High Speed HDMI Cable with Ethernet Plus 360 degree Swivel Adapters
- Bytecc 3 FT HDMI High Speed with Ethernet M/M Swivel Cable
- Bytecc HDMI High Speed Male to Male Swivel Cable – 6 Feet
- Bytecc HDMI High Speed Male to Male Swivel Cable – 10’

5. The United States Patent and Trademark Office duly and legally issued the ’343 Patent on February 24, 2009. A true and correct copy of the ’343 Patent is attached as Exhibit A.

6. On information and belief, Defendant runs a number of retail electronics stores aimed at hi-tech professionals. Per Defendant’s website:

Fry’s retails over 50,000 electronic items within each store, now totaling 34. There are currently 8 stores in Northern California, 9 stores in Southern California, 8 stores in Texas, 2 stores in Arizona, 2 stores in Georgia, and 1 store each in Illinois, Indiana, Nevada, Oregon and Washington. The stores range in size from 50,000 to over 180,000 square feet. Fry’s also provides customers with added shopping opportunities via its website at www.frys.com.

http://www.frys.com/template/isp/index/Frys/isp/Middle_Topics/G1%20Store%20History

y. For example, on information and belief, Defendant runs a retail store in the Eastern District of Texas, located at 700 E Plano Pkwy, Plano, TX 75074. On information and belief, Defendant sells its products in the United States, including within this District. On information and belief, Defendant's customers, including customers within this district, can purchase Defendant's products in stores and online at <http://www.frys.com>.

7. This Court has general personal jurisdiction over Defendant because it has maintained systematic and continuous business contacts with the State of Texas. Additionally, this Court has specific personal jurisdiction over Defendant because it has committed acts of patent infringement in the State of Texas by offering for sale and selling products, including but not limited to the Accused Products, that infringe one or more claims of a United States Patent owned by Ideative.

8. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391 and 1400(b).

BACKGROUND

9. The Accused Products allow connecting HDMI cables in tight spaces behind HD components such as mounted flat screen TVs without having to bend cables sharply, which can cause damage and unreliable performance.

GENERAL ALLEGATIONS

10. On information and belief, Defendant offers for sale and sells in Texas and throughout the world one or more devices, including but not limited to the Accused Products, that infringe one or more claims of the '343 Patent.

11. Defendant has been on actual notice of the '343 Patent at least since it received this complaint.

**FIRST CLAIM FOR RELIEF
(INFRINGEMENT OF THE '343 PATENT)**

12. Ideative incorporates the above as though fully set forth herein.

13. Ideative is the owner by assignment of all rights, title, and interest in the '343 Patent.

14. The '343 Patent is valid and enforceable.

15. On information and belief, Defendant has been and now is directly infringing one or more claims of the '343 Patent by making, importing, using, offering for sale, and/or selling the patented inventions in the United States.

16. More particularly, without limitation, Defendant is now directly infringing one or more claims of the '343 Patent by making, importing, using (including use for testing purposes), offering for sale, and/or selling the Accused Products, all in violation of 35 U.S.C. § 271(a).

17. Ideative has been damaged by the infringing activities of Defendant, and will be irreparably harmed unless those infringing activities are preliminarily and permanently enjoined by this Court. Ideative does not have an adequate remedy at law.

18. Upon information and belief, Defendant has had actual notice of the existence of the '343 Patent since at least the time it received this complaint. Despite such notice, Defendant continues in acts of infringement without regard to the '343 Patent, and will likely continue to do so unless otherwise enjoined by this Court.

19. Ideative is entitled to recover from Defendant the damages sustained by Ideative as a result of Defendant's wrongful acts in an amount to be proven at trial.

REQUEST FOR RELIEF

WHEREFORE, Ideative requests the following relief:

- (a) A judgment in favor of Ideative that Defendant has directly infringed one or more claims of the '343 Patent;
- (b) A judgment that Ideative has been irreparably harmed by the infringing activities of Defendant and is likely to continue to be irreparably harmed by Defendant's continued infringement;
- (c) Preliminary and permanent injunctions prohibiting Defendant and its officers, agents, servants, employees and those persons in active concert or participation with any of them, as well as all successors or assignees of the interests or assets related to the Accused Products, from further infringement, direct and indirect, of the '343 Patent;
- (d) A judgment and order requiring Defendant to pay Ideative damages adequate to compensate for infringement under 35 U.S.C. § 284, which damages may include lost profits but in no event shall be less than a reasonable royalty for the use made of the inventions of the Asserted Patent, including pre- and post-judgment interest and costs, including expenses and disbursements; and
- (e) Any and all such further necessary or proper relief as this Court may deem just.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Ideative hereby demands a trial by jury of all issues so triable.

Dated: October 18, 2016

Respectfully submitted,

/s/ Gary R. Sorden

Gary R. Sorden

Texas Bar No. 24066124

gary.sorden@klemchuk.com

Timothy J.H. Craddock

Texas Bar No. 24082868

tim.craddock@klemchuk.com

KLEMCHUK LLP

8150 N. Central Expressway

10th Floor

Dallas, Texas 75206

Tel: 214-367-6000

Fax: 214-367-6001

ATTORNEYS FOR PLAINTIFF

IDEATIVE PRODUCT VENTURES, INC.